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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,494	05/16/2006	Jeffrey Bruce McGeorge	FBRC0102US	9315
23908 7590 10/04/2010 RENNER OTTO BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE NINETEENTH FLOOR CLEVELAND, OH 44115				
EXAMINER THOMPSON, MICHAEL M				
ART UNIT		PAPER NUMBER		
3629				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,494

Applicant(s)

MCGEORGE, JEFFREY BRUCE

Examiner

Michael M. Thompson

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102/103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-8 and 10 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Joao (US 2003/0224854).**
4. **With respect to claim 1**, Joao teaches a method of monitoring changes in an information set of wagering information relating to wagers placed on the outcome of a sporting contest, the method comprising the steps of: a. entering into an agreement with a service provider to provide real time monitoring service of changes in an information set of wagering information relating to wagers placed on the outcome of a sporting contest (i.e. explicitly at least via paragraph [0506] and further implicit if not inherent in the function/operation of the prior art); b. receiving wagering information relating to

wagers placed by others on the outcome of a sporting contest on a network of computers in real-time (i.e. at least via paragraphs [0008], [0025], [0057], [0077], [0081], [0255], [0425] and passim wherein real-time information is mentioned at least at [0256], passim) ; c. receiving on a network of computers, instructions from a user specifying criteria including at least a sporting contest (i.e. at least via paragraphs [0056] and/or [0423] and throughout implying that users set criteria), and a change in the wagering information within a discrete time step *just* prior to the commencement of the sporting contest, the criteria signifying the occurrence of a change in the wagering information significant to the user (i.e. at least via paragraphs [0008], [0257], [0425] for the proposition that the information the user elects to monitor includes changes in the odds just prior to commencement of an event); d. comparing the criteria to the wagering information in real-time to determine when a change in the wagering information significant to the user occurs (i.e. again at least via paragraphs [0008], [0025-0026], [0057], [0077], [0081], [0255] [0257], [0425] for the proposition that in determining the alert it is inherent if not implicit that the user criteria is compared to the real-time data); and e. causing a real-time alert message to be issued by an output service associated with the network of computers to a remote communications device (RCD) of the user upon the occurrence of the change in the wagering information within the discrete time step prior to the commencement of the sporting contest as real-time changes in the wagering information occur, the real-time alert message directed to the remote communications device of the user and confirming the occurrence of the change within

the discrete time step (i.e. at least via paragraphs [0008], [0080-0082], [0135], [0236], passim).

In the alternative, should Applicant disagree that user notification, based on user preferences, are driven by the changes in wagering, etc., and if a user set a preference to guard against a particular change in wagering (as taught by Joao) wherein the specific change in wagering occurred at a time step just prior to commencement of a sporting contest fails to meet the criteria of anticipation under 35 U.S.C. 102, then it is the Examiner's position that it would be obvious. In particular, it would be obvious to one of ordinary skill in the art, at the time of invention to interpret the teachings of Joao to include situations where a user sets a preference based on wagering, knowing that the preference can only be carried out prior to commencement of an event (such as the case in wagering notifications, since all wagers cease prior to commencement), that if the users preference criteria is met by the changes in wagering and this occurs just prior to the commencement of the event then the user will get a notification of such change in wagering just prior to commencement.

5. **With respect to claim 2**, Joao teaches all of the limitations of claim 1, including the service provider utilising a "totalisator agency database" to monitor the wagering information (i.e. at least via [0029], [0081], [0259], passim).

6. **With respect to claim 3**, Joao teaches all of the limitations of claim 1, including the remote communications device (RCD) comprises fixed or mobile telephone, a

personal computing device or a facsimile or pager of the user (i.e. at least via paragraph [0026], *passim*).

7. **With respect to claim 4**, Joao teaches all of the limitations of claim 1, including the inherent teaching of a user having an RCD that has a software component (i.e. via at least the communication interface Para. [0285]) which can be used to send an input command to a software environment that is running on the network of computer systems of the service provider (i.e. via at least Para. [0285] when the user/client/principal interacts via the communication device for use with the prior art invention) in response to the input command the software environment sends a local input command to a software environment component that processes the command (i.e. the inherent operation with the wagering application as described in the prior art in any function) and which responds by issuing a local output command to a server infrastructure which in turn sends a remote output command to the RCD (i.e. similarly inherent in computer transmission facilitated in the prior art), and in response to a remote output commands, the RCD issues or displays an alert output (i.e. at least via the usage of the interface for setting criteria and/or alerts wherein the alerts are outputted via the communication device interface for the user to receive).

8. **With respect to claim 5**, Joao teaches all of the limitations of claim 1, including the user can define criteria defining a situation in which alert messages are to be issued

(i.e. again at least via paragraphs [0008], [0025-0026], [0056-0057], [0077], [0080-0082], [135], [236], [0255] [0257], [0423-0425]).

9. **With respect to claim 6**, Joao teaches all of the limitations of claim 1, including the service provider using a network of computers or computer systems to monitor the wagering information (i.e. again at least via paragraph [0046] for the proposition that the functions of this prior art reference, such as monitoring and sending alerts may occur over networks or computer systems).

10. **With respect to claim 7**, Joao teaches all of the limitations of claims 1 and 5, including the network of computers adapted to send and receive information to and from a totalisator agency data server which contains real time information regarding the wagering information. (i.e. rejected under a similar rationale of that of claim 6 for the proposition that an embodiment containing several networks or computer systems will still utilize the "agencies" database in order to access the wager information). Please note that networks are inherently capable or adaptable to allow for sending and receiving information to all types of servers and MPEP 2111.04 for the proposition that claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure.

11. **With respect to claim 8**, Joao teaches all of the limitations of claim 1, further comprising the step of providing at least one history server, to store the wagering information in a database to prevent the need to request the same information numerous times. (i.e. at least via database server supplying information at [0029], [0079] and/or passim, many of which carry both current and past information of both the wagering information and prior results or outcomes.)

12. **With respect to claim 10**, Joao teaches all of the limitations of claims 1 and 8, including the user communicating to the service provider at least one analysis criteria upon which alert messages are to be sent. (i.e. again at least via paragraphs [0008], [0025-0026], [0056-0057], [0077], [0080-0082], [135], [236], [0255] [0257], [0423-0425]).

Response to Arguments

13. Applicant's arguments filed 08-16-2010 have been fully considered but they are not persuasive. The Examiner has previously attempted to clarify the rejection by providing more examples for Applicant in order to expedite prosecution. In particular, Applicant points to the paragraphs cited by the Examiner for the proposition that the prior art fails to teach "a user requesting that a notification be issued dependent upon the movement in the wagering information in a discrete time step just prior to the commencement of the sporting contest." Applicant similarly states that claim 1, "provides the user with an alert containing the notification relevant to the user at the time step determined by the user." The user only has to wait for a single notification

rather than many and once the notification is received, can act immediately without filtering the information. It is this decisiveness that allows the user to be ahead of the market reaction and thereby gain advantage. Once again, In order to better clarify the Examiner's rejection and the prior art as applied, the Examiner would like to point out consideration of the full reference reveals additional support for the scope of the Joao patent publication. In the least, Applicant may review paragraphs [0056-0059], [0121] (and respective definitions of counterparty, etc.), [0432], [0642], [0646-0651].

At the heart of Applicants independent claim, Applicant's claim recites in part, "receiving on a network of computers, instructions from a user specifying criteria including at least a sporting contest, and a change in the wagering information within a discrete time step just prior to the commencement of the sporting contest, the criteria signifying the occurrence of a change in the wagering information significant to the user..." It is the Examiner's position that these limitations are met by the prior art. For example, at least paragraphs [0432 and [0642], [0646-0651] recite instances where the user can set notification for changes in wagering information (i.e. changes in betting and/or odds for a given gambling event.) Given the broadest reasonable interpretation, the "change in wagering information within a discrete time step just prior to commencement" may be interpreted in several ways. It may be interpreted as a change in wagering information at some point prior to commencement of the sporting contest. ***It may similarly be interpreted as a change in wagering at a certain point in time such is the case when the user sets a particular wagering parameter to be notified, with respect to changes in wagering information such as betting, odds,***

or betting by other users. *For example, when a user sets a particular parameter with respect to wagering, when these conditions are met prior to commencement the notification will issue.* This will occur if there is a change in wagering, etc., just prior to commencement. The phrase "within a discrete time step just prior to commencement of the sporting contest..." modifies the phrase presenting the instructions for trigger, namely, "a change in wagering information..." This signals that the change is wagering is the trigger and it must happen at some point prior to commencement. *Therefore, if the user sets a parameter of change to be detected and such a change occurs just prior to commencement then the claimed limitations will be satisfied.* Therefore, in the least, the prior art explicitly teaches the limitations of Applicant's claims.

Similarly, with respect to the real-time alert message, Applicant's claims further state "causing a real-time alert message to be issued by an output service associated with the network of computers to a remote communications device (RCD) of the user upon the occurrence of the change in the wagering information within the discrete time step prior to the commencement of the sporting contest as real-time changes in the wagering information occur, the real-time alert message directed to the remote communications device of the user and confirming the occurrence of the change within the discrete time step." It is believed that the clarification as presented above is applicable to the limitations of section "e." of Applicants claim 1. For example, the betting, odds, and betting user notification as describe in Joao teaches notification upon changes in the information.

Conclusion

14. The Examiner has pointed out particular references contained in the prior art of record, within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Publication number **2008/0274802** and NPL of the website www.youbet.com more than a year earlier of applicants effective filing date reciting a betting website providing several of the services claimed. Please note that several other references originally recited in the PCT search report may also be applicable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael M. Thompson whose telephone number is (571) 270-3605. The examiner can normally be reached on Monday thru Friday 8am-5:30 except Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jamisue Plucinski can be reached on (571) 272-6811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael M Thompson/
Examiner, Art Unit 3629

/Traci L Casler/
Primary Examiner, Art Unit 3629